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# International Covenant on Civil and Political Rights

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**Human Rights Committee**
**101st session**

**Summary record of the first part (public)* of the 2794th meeting**
Held at Headquarters, New York, on Monday, 28 March 2011, at 3 p.m.

*Chairperson*: Ms. Majodina

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Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

*Concluding observations of the Human Rights Committee on the third periodic report of Slovakia* (*continued*)

* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant** (*continued*)

*Concluding observations of the Human Rights Committee on the third periodic report of Slovakia* (*continued*) (CCPR/C/SVK/CO/3/CRP.1)

1. **The Chairperson** invited the Committee to resume consideration of the draft concluding observations, and to turn first to paragraph 16, left in abeyance at the previous meeting.

*Paragraph 16* (*continued*)

2. **Mr. O'Flaherty** said that while he agreed with Ms. Motoc, country rapporteur for Slovakia, that disaggregated data could sometimes work against minorities, he hoped that she could still find language to convey the need for the provision of such data. The Committee, like other treaty bodies, had consistently reminded States parties of their obligation to develop disaggregated data across sensitive vulnerabilities, including ethnicity.

3. **Ms. Motoc** said that she would try to find an appropriate legal formulation to capture that point.

4. **Mr. O'Flaherty** said that the sentence in square brackets in the recommendation suggested by Mr. Thelin could be reformulated to read: "Furthermore, the Committee requests the State party to compile disaggregated statistical data for purposes of tackling patterns of discrimination against the Roma community". That would ensure that the State party did not encourage racial profiling or any similar practice.

5. **Mr. Thelin** said that he had added that sentence for the sake of consistency, because the expression of concern in the chapeau contained a reference to the lack of data on the situation of the Roma, while the recommendation did not. The sentence should be included in or deleted from both places.

6. **Ms. Motoc** suggested using the formulation employed by the European Commission against Racism and Intolerance of the Council of Europe, whereby States members of the Council were urged to "collect relevant data broken down according to categories such as nationality, national or ethnic origin, language and religion [...] that they ensure that this is done in all cases with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group". That formulation was particularly relevant in the current context, because self-identification was a crucial issue for Roma in Slovakia.

7. **Mr. Thelin** said that he did not remember the lack of statistical data being part of the dialogue with the State party and would therefore delete the sentence from both the expression of concern and the recommendation.

8. **Ms. Motoc** said that she had indeed put two questions to the delegation regarding the number of Roma in the country and the census results, and would therefore maintain a legal formulation that included the concept of self-identification.

9. **Mr. Neuman** said that the reference to statistical data should be deleted, because it was too complicated to be resolved on the fly. He was concerned that asking for data based on self-identification would, in some respects, understate what the Committee was trying to measure.

10. **Ms. Chanet** said that, before suggesting that people should be identified as belonging to a particular group, the Committee should bear in mind that the European country where most Jews were arrested during the Holocaust was one that had official statistical data about ethnic groups.

11. **Mr. O'Flaherty** agreed that the sentence should be deleted, because a discussion on its subject matter was too complex for the current context.

12. **The Chairperson** said she took it that the Committee agreed to delete the last part of the recommendation and the applicable part in the expression of concern.

13. *It was so decided.*

14. **Mr. Iwasawa** said he thought that the decision had been taken during the examination of a previous paragraph to replace the expression "affirmative action" by "temporary special measures".

15. **Ms. Motoc** said that the Committee had agreed that "temporary special measures" was an inappropriate expression to cover the special case of Roma.

16. **Sir Nigel Rodley** said that "affirmative action" should be used in the current paragraph, since that was the expression used in general comment No. 18 on

non-discrimination, and it had basically the same meaning as "temporary special measures".

17. **Ms. Motoc** said that the long-standing discrimination which Roma had endured called for much more than just temporary measures.

18. **Sir Nigel Rodley** said that it was clear from reading general comment No. 18 that "affirmative action" could only be of a temporary nature. Moreover, the Committee had never established that there was a distinction between "affirmative action" and "temporary special measures". In any event, perhaps the issue could be resolved by referring instead to "effective action".

19. **Mr. O'Flaherty** said that he would accept "affirmative action" if that was the Committee's choice. The issue of temporariness might also be solved by using the expression "sustained action".

20. **Ms. Motoc** said that she would still prefer "affirmative action", because it carried more legal weight than any of the other expressions.

21. **The Chairperson**, speaking as a member of the Committee, said that she, too, preferred the expression "affirmative action", because the discrimination faced by Roma was different and it called for affirmative action, not temporary measures.

22. **Mr. Rivas Posada** said that "affirmative action" was rendered in the Spanish version as "acción afirmativa", which meant nothing at all. If "affirmative action", a creation of the English culture, was retained, then another equivalent must be found in Spanish; otherwise, the Spanish text would be meaningless.

23. **Ms. Motoc** said that if it was only a matter of translation, perhaps Mr. Rivas Posada could suggest a Spanish expression to capture the true meaning of the expression.

24. **Mr. Rivas Posada** said that it was not a translation issue; the concept itself did not exist in Spanish.

25. **Ms. Chanet** said that, upon reading the French text of general comment No. 18, she agreed with Sir Nigel Rodley that affirmative action could only be of a temporary nature. There was therefore no real difference between "affirmative action" and "temporary special measures".

26. **The Chairperson** said she took it that the Committee agreed to retain the expression "affirmative action".

27. *It was so decided.*

28. *Paragraph 16 was adopted.*

*Paragraph 17*

29. **Mr. O'Flaherty** said that he agreed with the general thrust of the paragraph, but that the last sentences of both the expression of concern in the chapeau and the recommendation could be construed as compelling children to undergo medical examination in order to qualify for special needs classes. He hoped that the country rapporteur could suggest a different formulation that would prevent such an interpretation.

30. **Ms. Motoc** suggested that the problem might be resolved by deleting the word "mental" from the last sentence of the recommendation.

31. **Mr. O'Flaherty** said that the word "mental" could very well be deleted from the expression of concern. Nor should the idea of undergoing a medical examination be included in the recommendation. Lastly, the last sentence could be amended to read: "Furthermore, the State party should take concrete steps to ensure that decisions for the placement of all children, including Roma children, in special needs classes are made only on the basis of the capacity of the child and never on the child's ethnicity".

32. **Ms. Motoc** said that the issue of ethnicity was irrelevant, because the situation applied to all children, especially poor children, not just Roma children. She suggested replacing the expression "medical examination" by "independent medical evaluation".

33. **Mr. O'Flaherty** said that, to reflect the fact that any examination must be voluntary, he would amend the recommendation to read: "Furthermore, the State party should take concrete measures to ensure that decisions for the placement of all children, including Roma children, in special needs classes may not be made without conducting an independent evaluation".

34. **The Chairperson** said she took it that the Committee agreed with that formulation.

35. *It was so decided.*

36. *Paragraph 17, as amended, was adopted.*

*Paragraph 18*

37. *Paragraph 18 was adopted.*

*Paragraph 19*

38. **Ms. Motoc** suggested that the State party should be requested to provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 7, 8 and 13.

39. *Paragraph 19 was adopted.*

*Paragraph 20*

40. **The Chairperson** said she took it that the Committee wished to request that the State party should submit its fourth periodic report within four years.

41. *It was so decided.*

42. *Paragraph 20 was adopted.*

43. *The draft concluding observations of the Human Rights Committee on the third periodic report of Slovakia, as amended and subject to agreed redrafting, were adopted.*

*The discussion covered in the summary record ended at 3.45 p.m.*